

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

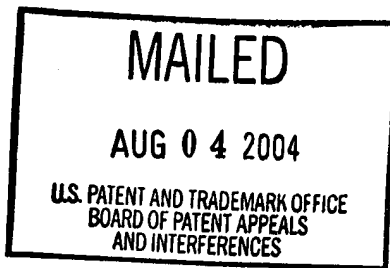
Paper No. 23

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

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Ex parte WILLIAM M. KLEINFELTER

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Appeal No. 2004-1787  
Application No. 09/348,774

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**REMAND TO THE EXAMINER**

This application was received at the Board of Patent Appeals and Interferences on June 16, 2004. A review of the application has revealed that the application is not ready for a decision on appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to the decision is identified below.

A Reply Brief along with a request for oral hearing was filed May 13, 2004, however, these papers were not matched with the official file. On July 28, 2004, the Board of Patent Appeal and Interferences received a facsimile of these papers. The request for oral hearing needs to be entered into the Patent Application Location and Monitoring system (PALM). The Reply Brief needs to be considered by the examiner

with respect to compliance with the criteria set forth in 37 CFR § 1.193(b)(1) which states:

**(b)(1) ... The primary examiner must either acknowledge receipt and entry of the reply brief or withdraw the final rejection and reopen prosecution to respond to the reply brief.**

Accordingly, it is

**ORDERED** that the application be **remanded** to the examiner to enter the reply brief and request for oral hearing into the PALM system, consider the reply brief with respect to 37 CFR § 1.193(b)(1) and for such further action as may be appropriate.

This application, by virtue of its "special" status, requires an immediate action, see Manual of Patent Examining Procedure § 708.01 (Eighth Edition, Aug. 2001), item (D). It is important that the Board of Patent Appeals and Interferences be promptly informed of any action affecting the appeal in this case.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

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